

Appl. No. : 10/644,195
Filed : August 20, 2003

REMARKS

In response to the restriction requirement, Applicant elects the following species to which the invention shall be restricted if a generic claim is finally held to be allowable:

Method

Applicant elects a species wherein the method contains a source gas of a silicon-containing compound at least one vinyl group and a silicon-containing hydrocarbon having no vinyl group, and an additive gas. (Claims 7-9 and 16 read on this.)

Si-Vinyl compound

Applicant elects a cyclic compound having the formula S9(n)O(n)R(2n) wherein R is C(1-6) saturated hydrocarbon. (Claim 8 reads on this.)

Additive gas

Applicant elects a carrier gas, and further elects He. (Claims 10 and 13 read on these.)

Claim 1 is generic.

Restriction - Markush Claims

MPEP § 803.02 prescribes:

"If the members of the Markush group are sufficiently few in number or so closely related that a search and examination of the entire claim can be made without serious burden, the examiner must examine all the members of the Markush group in the claim on the merits, even though they *>may be< directed to independent and distinct inventions. In such a case, the examiner will not follow the procedure described below and will not require *>provisional election of a single species<.

Since the decisions in *In re Weber*, 580 F.2d 455, 198 USPQ 328 (CCPA 1978) and *In re Haas*, 580 F.2d 461, 198 USPQ 334 (CCPA 1978), it is improper for the Office to refuse to examine that which applicants regard as their invention, unless the subject matter in a claim lacks unity of invention. *In re *>Harnisch<*, 631 F.2d 716, 206 USPQ 300 (CCPA 1980); and *Ex parte Hozumi*, 3 USPQ2d 1059 (Bd. Pat. App. & Int. 1984). Broadly, unity of invention exists where compounds included within a Markush group (1) share a common utility, and (2) share a substantial structural feature ** essential to that utility."

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At least Claims 2, 8, 10, and 13 are Markush claims. Applicant believes that the members of each Markush group are sufficiently few in number or so closely related that a search and examination of the entire claim can be made without serious burden, the examiner must examine all the members of the Markush group in the claim on the merits, regardless of whether the members are directed to independent and distinct inventions. Applicant respectfully requests reconsidering the restriction requirement in view of the above.

No fees are believed due for the present Amendment, however, should any fees be due, please charge them to our deposit account No. 11-1410.

Respectfully submitted,

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